

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)	
)	91R-1194-MC
JOHN C. DUKES)	

For Appellant: John C. Dukes,
in pro. per.

For Respondent: Richard Gould
Counsel

OPINION

This appeal is made pursuant to section 19061.1^{1/} of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claim of John C. Dukes for a refund of personal income tax in the amount of \$53 for the year 1987.

^{1/} Unless otherwise specified, all section references are to sections of the Revenue and Taxation Code as in effect for the year in issue.

The question presented in this appeal is what constitutes "adjusted gross income" for purposes of determining the qualified retirement contribution ("IRA") pursuant to section 17272.

Appellant filed his 1987 California individual income tax return as a single person. On his return, he claimed an IRA deduction of \$2,000. For this same year, his federal adjusted gross income was \$26,005. This included a federal IRA deduction of \$2,000. Appellant was an active participant in an employer- sponsored pension plan. Respondent examined his return, and determined that the amount of his IRA deduction should be reduced since his adjusted gross income exceeded \$25,000. Respondent determined that appellant's adjusted gross income was \$28,005 and thus his IRA deduction should be reduced by \$600. Therefore, respondent proposed an assessment based on a smaller IRA deduction. Appellant protested, respondent affirmed its action, and appellant appealed to this board. Appellant has since paid the tax, converting the case to an appeal from the denial of a claim for refund.

Section 17201 conformed to federal law for purposes of computing taxable income. Thus, California specifically adopted the deduction allowed by Internal Revenue Code ("I.R.C.") section 219 for qualified retirement contributions. The allowable IRA deduction is the lesser of \$2,000 or the amount of the individual's compensation. (I.R.C. § 219(b)(1).) In the case of a single taxpayer who is an active participant in certain types of pension or retirement plans (I.R.C. § 219(g)(5)), the allowable IRA deduction is reduced if the taxpayer's adjusted gross income exceeds \$25,000. (I.R.C. § 219(g)(2).) The reduction is based on a ratio equal to the excess of adjusted gross income over \$25,000 divided by \$10,000. (I.R.C. § 219(g)(2)(A).) This percentage is multiplied by the allowable contribution to arrive at the reduction. (I.R.C. § 219(g)(2)(A).) Adjusted gross income for purposes of section 219 is defined as adjusted gross income after the application of I.R.C. sections 86 and 469, and without regard to section 911 and the deduction allowed for an IRA pursuant to section 219. (I.R.C. § 219(g)(3)(B).) For purposes of computing the state IRA deduction, section 17272 provides that federal adjusted gross income shall be used.

Based on the above code sections, respondent has properly reduced appellant's IRA deduction. Appellant's federal adjusted gross income, before his federal IRA deduction, was \$28,005. This exceeded \$25,000 by \$3,005. Respondent then divided the \$3,005 by \$10,000 arriving at a percentage of 30.05 percent. Respondent then multiplied this by appellant's IRA deduction of \$2,000, arriving at a reduction of \$600 (\$601 reduced to \$600 per I.R.C. section 219(g)(2)(C)). This resulted in an increase in his tax liability of \$53. Appellant contends this is erroneous since his state taxable income was \$24,398. However, as indicated above, the reduction in the state IRA contribution is based on federal adjusted income before the federal IRA deduction; the reduction is not based on state taxable income. Appellant appears to have confused adjusted gross income (I.R.C. § 62) with taxable income (I.R.C. § 63). These are two different concepts. Accordingly, respondent's action in this matter must be sustained.

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, pursuant to section 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claim of John C. Dukes for a refund of personal income tax in the amount of \$53 for the year 1987 be and the same is hereby sustained.

Done at Sacramento, California, this 30th day of July, 1992, by the State Board of Equalization, with Board Members Mr. Sherman, Mr. Dronenburg, and Ms. Scott present.

Brad Sherman, Chairman

Ernest J. Dronenburg, Jr., Member

Windie Scott*, Member

_____, Member

_____, Member

*For Gray Davis, per Government Code section 7.9
dukes.mc